

MINUTES

WARRICK COUNTY AREA PLAN COMMISSION

Warrick County Judicial Center, One County Square, Courtroom #4,
Room 310 (North End of Building)
Boonville, Indiana 47601
Monday, April 8, 2013, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, President, Jeff Valiant, Vice President, Mike Moesner, Amanda Mosiman, Brad Overton, Richard Reid, and Jeff Willis.

Also present were Sherri Rector, Executive Director and Sheila Lacer and Tara Dickerson, Staff.

MEMBERS ABSENT: Morrie Doll, Attorney

MINUTES: Upon a motion made by Amanda Mosiman and seconded by Jeff Willis, the Minutes of the last regular meeting held March 11, 2013, were unanimously approved as circulated.

The President explained the rules of procedure.

PP-13-06- Kirby's Broadview Farms Estates by Kirby Broadview Farms, INC, James Kirby, Pres. OWNERS OF RECORD: Same (Amendment to PP-12-04 Approved May 14, 2012) 20.5745 acres located on the S side of Millersburg Rd. approximately 900' E of the intersection formed by Millersburg Rd. (N 250) & Eskew Rd. (W 300), Boon Twp. Complete legal on file. *(As Advertised in Boonville Standard on March 28, 2013)*

James Kirby and Bill Bivens were present.

The President called for a staff report.

Mrs. Rector stated we do have all returned receipts from certified mail to adjacent property owners except for two, from Kerry W. Owen and Robert E. & Dawn M. Helms. Mrs. Rector stated the platted property proposed is zoned "R-1" Single Family Dwelling. She said the property lies within the TIF District. Mrs. Rector stated the platted property is not in a Flood Hazard Zone per Firm Map 18017C0 D however, the remaining unplatted property of the parent track, a portion of it is. She said this is proposed six lots. She said the acreage ranges from 2.5 acres to 5 acres. Mrs. Rector said the minimum lot size for "R-1A" is 9000 Sq. Feet. She said this is an amendment to PP-12-04 that was approved on May 14, 2012. Mrs. Rector said the primary plat contained 4 lots and there have been 2 additional lots added to this primary. She said the County Commissioners granted the request that no improvements be made to

Millersburg Road. Mrs. Rector said lots have shared driveways between Lots 1 and 2; Lots 3 and 4; and Lots 5 and 6. She said the Drainage Board ruled that no drainage plans were required due to the size of the lots in this subdivision (2.5 to 5.0 acres). Mrs. Rector said all lots have an approved septic site. She said Chandler Water has lines in place and ready for connection. Mrs. Rector said the proposed development is a six lot residential subdivision and is in technical conformity to the Subdivision Control Ordinance.

The President asked the applicants if they had anything to add to the staff report.

Ascertaining there were no remonstrators present and no questions from the Board, the President called for a motion.

Richard Reid made a motion to approve PP-13-06.

The motion was seconded by Mike Moesner and unanimously approved.

PP-13-07- Arbor Pointe Section 2 by New Urban Investments, LLC, Brian Murphy, Managing Member. OWNERS OF RECORD: Same. 18.324 acres located on the E side of Arbor Pointe Dr. approximately 1600' N of the intersection formed by Grimm Rd. (W 100) & State Rd. 66, being lots 71-73 in Arbor Pointe, Sec 1, as recorded in Document # 2008R-000250 in the Warrick County Recorder's Office and part of Section 21 Township 6 South, Range 9 West all in Ohio Twp. Complete legal on file. (*As Advertised in Boonville Standard on March 28, 2013*)

Glen Merrit, Engineer, was present.

The President called for a staff report.

Mrs. Rector stated we do have all returned receipts from certified mail to adjacent property owners. She said the zoning of the property is "C-4" General Commercial. Mrs. Rector said the subject property lies within the Flood Zone AE. She said the BFE is 388 and the FPG is 390. Mrs. Rector said any new structures will need a certified plot plan certifying the structure is 2 feet above the BFE, or will need a LOMA. She said Lots 35-41 (old Lots 71-73) have a LOMA. She said this is a proposed 54 lot residential subdivision. She said the average Lot size is 0.269 acres. She said Arbor Pointe was originally primary platted in July of 2006. Mrs. Rector said Section 1, containing 11 lots, was approved and recorded in January of 2008. She said this plat is a replat of lots 71, 72, and 73 of Arbor Pointe, Section 1, and a portion of the unrecorded primary plat. Mrs. Rector said the County Commissioners ruled that the previous street construction plans that were submitted and approved for Arbor Pointe Subdivision be reapproved for Arbor Pointe, Section 2. She said currently, the access for this subdivision will be the same as approved for Section 1. She said the County has purchased additional Right of Way, and with the construction of Warrick Trail and proposed construction on the additional Right of Way, new access will become available. Mrs. Rector said the Drainage Board ruled that the original

drainage plans that were submitted and approved for Arbor Pointe Subdivision be reapproved for Arbor Pointe, Section 2. She said they also allowed reducing the Right of Entry on the legal drain to an urban drain of 50 feet. She said that runs along lots 29-41. Mrs. Rector said Newburgh Sewer has provided a letter stating they do have capacity. She said Chandler Water has sufficient pressure and flow. She said it is a proposed 54 Lot Residential Subdivision. Mrs. Rector said homes will need to meet the residential setbacks even though the zoning is Commercial. She said the plat is in technical conformity to the Subdivision Control Ordinance.

The President asked if this road was Stahl Rd.

Mrs. Rector said the official name of the road was Warrick Trail.

The President asked the applicants if they had anything to add to the staff report.

Glen Merrit said this property that is being asked for primary plat approval was approved with Arbor Pointe. He said the whole subdivision was submitted and accepted. He said they are basically merging back to the original drainage plans and original road plans. He said the only change is, they have added four or five lots from the original plat. He said the original lots were 70 foot lots and now they are 64 or 65. He said existing detention basins have been constructed and majority of the dirt work has already been constructed. He said the plan is to go in there and install the utilities and roadway, and come back with a final plat hopefully in the fall and start building homes.

Richard Reid asked what size the homes would be.

Mrs. Rector said they have included Vann Rd. 40 foot for right of way for the future Vann Rd. that the County has in the thoroughfare plan.

Glen Merrit said since the shaded lots were already platted, the builder pulled a permit for one of the lots to build a house. He said he was not sure of the exact square footage. He said it is a two story home and the footprint is around 1500 square feet. He said it is a fairly decent size of home when you add the second story.

The President asked the Board if they had any questions.

The President asked if there were any remonstrators for or against the project.

Randa Owens stated she owns the property to the east and she is looking for more information on the project. She said she doesn't know if she is opposed to it. She said this was the first notice she received. She said she wanted to see how this would affect her property and would like to be able to get with the engineer or Brian Murphy and see where she stands. She said the farmer called her and said there were some flags on her property. She said she didn't know what they were for.

Mrs. Rector asked her if she owned adjacent to the property being platted.

Randa Owens said yes, she owns 105 acres.

Mrs. Rector asked her if she had seen the layout of the proposed development and if she would like to see a large drawing.

Randa Owens said yes.

Discussion ensued over what property was being platted.

Randa Owens said she is concerned how this will affect her property with building 54 residential units. She said she knows how Mr. Murphy builds his property, and there is a minimum amount of ground between properties.

Mrs. Rector said the original primary plat that was approved showed the lots being 70 foot wide lots and they have reduced them by ten feet.

Richard Reid asked if the zoning was being changed from “C-4” to “R-1”.

Mrs. Rector said no. She said the zoning does not change. She said they have to meet the residential setbacks even though they are zoned commercial.

Randa Owens said the zoning could affect her property.

The President explained that the property is still commercial, and the developer could build something else in that zoning, but are proposing this residential development.

Glen Merrit said as far as the proximity of Mrs. Owens property to the proposed development, there is 75 feet of easement before the building would start.

Discussion ensued over the zoning from the original approved plat to the proposed plat.

Randa Owens asked the Board if there was any way the decision could be put off until she has an opportunity to investigate the development further.

The President said Mrs. Owens could make that as a statement but it will be up to the Board to decide what they will do.

Mrs. Rector said Mrs. Owens should have received a notice 21 days ago that gave Mrs. Owens time to come into the Area Plan office and look at the plat.

Randa Owens said she actually showed up early to the meeting and thought she might have time to look the plat over. She said she expected that there would be a bigger plat for her to look at.

The President said that was the reason for the 21 day notice, so she could ask the Executive Director or to get with the company before the meeting. He said he understands Mrs. Owen’s concern and will take it into consideration.

Ascertaining there were no other remonstrators present and no questions from the Board, the President called for a motion.

Mike Moesner made a motion to approve PP-13-07.

The motion was seconded by Amanda Mosiman and unanimously approved.

OTHER BUSINESS:

Formal Complaint ~ Wendall and Nancy West ~ 2722 Walnut Lane ~ OWNER OF RECORD: Wendall and Nancy West~ Junk Salvage Yard in an “A” Agriculture zoning district. Cease and Desist Notice and Notice to Appear sent on March 27, 2013.

Nancy West was present.

The President called for a staff report.

Mrs. Rector said a formal complaint was filed on March 15, 2013 stating *Trash all over yard, junk lawn mowers, vehicles, and general disrepair. Trash is garbage, metal, and appliances. Looks like a junk yard.* She said the Zoning Inspector went to the property on March 15, 2013, and reported that he found the complaint to be true; and the property is a mess and there is trash, junk, and miscellaneous items all over the yard. Mrs. Rector said on March 27th, we sent a cease and desist letter to Mr. and Mrs. West informing them of the violation and that they were to appear at this meeting. She said there has been no response to the letter. Mrs. Rector stated that the Building Inspector was to go to the property before the meeting and take pictures, but she had not heard from him.

Mrs. West said that she has hired someone to clean the property up and they are working on it.

The President asked Mrs. West if she had hired an individual to help her.

Mrs. West said yes, and her husband is deceased and she is unable to do it herself.

The President asked Mrs. West if she lived by herself.

Mrs. West said no, she has a son that lives with her and he has Parkinson's. She said he has mental issues because of the medicine he is on and destroys things.

The President asked Mrs. West when she contacted the individual about helping her.

Mrs. West said the individual worked on it the past week and is still not finished. She said he has a few more days left. She said the refrigerator out front is not junk. She said a lady gave her the refrigerator.

Mrs. Rector asked her if she was talking about the one next to the front door.

Mrs. West said yes. She said it is plugged up and running. Mrs. West said it is too big to fit through the front door. She said it's sitting there until she can get the guys that are cleaning to move it to the back and get it in the kitchen. She said the car needs to be worked on but does run occasionally.

The President asked Mrs. West if the van runs.

Mrs. West said sometimes. She said it needs to be worked on. She said it belongs to her son that has Parkinson's.

Richard Reid asked Mrs. West if the vehicle was licensed.

Mrs. West said not right now, at the time it was not running. She said she could get it licensed this week.

Mrs. Rector said Mrs. West needed to get the vehicles license and operable.

The President asked what the cabinets at the end of the house were for.

Mrs. West said they were storage cabinets.

The President asked if they were metal or wood.

Mrs. West said they are wood and are to be moved to the building in the back.

Mike Moesner asked Mrs. Rector if she had heard from the Building Inspector.

Mrs. Rector said no, she called him this morning and never heard back from him.

The President asked if there were any other questions from the Board members.

Mrs. West said she would like to have some extended time to clean the property.

The President asked if there were any remonstrators.

Richard Salee said his mother lives across the road from Mrs. West, and the property is a constant issue. He said the property might get cleaned up for a couple of days but ends up going back the same way. He said his mother likes to sit out on her porch and does not like looking at the mess. He said no one should have to live with looking at the mess. Mr. Salee said he understood there was stuff going on down there, but just because there might be a person with a mental illness, they should still not be able to throw trash out in the yard and let it blow all over the neighbor's yard.

Mrs. West said the trash was not blowing all over the neighbor's yards.

Mr. Salee said his point is the property might get cleaned up but ends up being back the same way. He said this has been going on several years and it continues to get worse and worse. He

said his mother is 77 years old and doesn't get out, and that is why he was there. He said it is not a point of trying to make people mad. He said the whole town has started to look like a mess. He said there are five or six properties like this, and the people that live in the town seem to think nothing will be done about the situation. Mr. Salee said that if maybe one would get cleaned up; others would start getting cleaned up. He said it decreases property values, and eventually in four or five years if his mother passes away he might need to sell the property and he has to think about this.

The President asked if there were any other remonstrators.

Tracy Pease said he lives across the street from the residence. He said it has been going on for a couple of years. He said it has been cleaned up this week. He said it looked a lot better but there are still some things that could be moved to the back yard. He said no one would drive up that street and look at that and think wow. Mr. Pease said he walks out his front door every morning and sees the trash. Mr. Pease said he knows Mrs. West's son has issues and needs help.

Mrs. West said she agrees and understands. She said her son has had issues for a couple of years. She said his medication affects him. She said five years ago her house did not look like it does now. Mrs. West said she is trying her best to resolve the problem. Mrs. West said she is trying to get her son's medication situated where he does not have anger issues.

Mr. Pease said there has been work done this last week and the trash was picked up, but there is still a lot of stuff. He said at 7:30 in the morning, he noticed Mrs. West's son was dragging up rotten wood by the street.

Mrs. West said she is trying to talk to her son about the trash. Mrs. West said she thinks he has a mental problem from being medicated. She said the medication for each problem he has causes anger problems.

The President said he understood. He said he knows it is a big hassle for the caregiver trying to get doctors to talk to each other so they are all aware of the different types of medicine. The President said Mrs. West needs to try to do that so she can get the problem resolved. He said if Mrs. West gets the property cleaned up she needs to keep it clean. He said looking at the pictures, most of the problem is trash. He said it looked like there were just a few loads of trash.

Mr. Pease said he lives on a hill and unfortunately, it is hard to miss. He said the family comes over and cleans the property up, and less than 24 hours, he has watched the son dump the trash cans out. He said the problem isn't cleaning the property up, it's keeping it clean, and the son needs some help. Mr. Pease said the son blames the problem on everyone else. He said the son has accused him of killing his fish, and Mr. Pease said he has not stepped foot on the property.

The President said unfortunately, all the Board can take care of is the cleanup of the property. He said he understands there are some issues, but Mrs. West needs to take corrective measures to

get her son under proper medication or whatever she needs to do. He said obviously, the Board wants the property cleaned up.

Mr. Pease said the doors on the van stand wide open 24 hours a day. He said it could be three o'clock in the morning and the son is slamming doors. He said he would like to see the front yard cleaned up and stay that way.

Mrs. Rector said she was a little confused. She asked Mrs. West if her son throws trash on the yard when he gets angry. She asked Mrs. West how the trash gets in the yard.

Mrs. West said yes, her son dumps out the trash from the trash cans.

The President asked if she was hauling trash in.

Mrs. West said the trash comes from their house. She said she is not hauling it in.

The President asked Mrs. West if she goes to the landfill or if she has a trash service.

Mrs. West said her brother has a trash service that comes by twice a week and empties a big dumpster. She said there are three of them that split the bill. She said her brother wants to make sure the trash is in trash bags so the dumpster does not smell.

Jeff Valiant asked Mrs. West if she has to take her trash to her brother's house.

Mrs. West said her brother lives around the block.

Jeff Valiant asked Mrs. West if the person cleaning up the property had a contract or is just supposed to show up.

Mrs. West said the individual cleaning the property was supposed to be done the day of the meeting but did not show up.

Mike Moesner asked Mrs. West if she had any other family members that could help her from time to time.

Mrs. West said she has a daughter and another son that lives with her. She said her other son gets aggravated and does not want to clean up the mess. She said her children do help.

Mike Moesner said Mrs. West needed to convince her family to help her. He said the problem is out of her neighbor's hands, and he himself, would not want to look out his front door and see the mess all the time. He said she needs to convince her family members that the problem is very important; not only to her family and health, but for the safety and health of others in the community.

The President asked the Board to make a motion.

Brad Overton made a motion to have the property cleaned up within 30 days, and if not, proceed with legal action.

Richard Reid said Mrs. West needed to get the vehicles licensed and running.

Brad Overton told Mrs. West that she couldn't drag everything to the back of her property that it needed to be cleaned up. He said this included all loose waste. He said the Building Inspector should be sent out before the next meeting.

Rick Salee said there is a mobile home behind the house and other junk.

Mrs. West said she uses the mobile home as a storage building.

Rick Salee said there are a couple of sheds and mobile home.

Amanda Mosiman said there is an issue having a mobile home on the property with the residence. She said that even if Mrs. West is using the mobile home as a storage building for herself, a mobile home is classified as a residence, and Mrs. West cannot have two residences on one lot. She said Mrs. West is going to have to get it moved in the 30 days.

Mrs. West asked if the mobile home was a problem being used as storage.

Mrs. Rector said yes, it is still a mobile home.

Amanda Mosiman said Mrs. West is allowed to have a storage building with a permit. She said the mobile home is not classified as a storage building under the Warrick County Control Ordinance.

The President asked Brad Overton if he made a formal motion.

Brad Overton said yes.

Mrs. Rector asked Mrs. West if she understood what the Board was stating. She said if the property is not cleaned up in 30 days, the Board will turn it over to the Attorney, who will file suit against her. She said Mrs. West will end up going to Small Claims Court. Mrs. Rector said the court could fine Mrs. West up to \$300.00 per day for every day the property is not cleaned up. She said if Mrs. West does not clean the property up, the County Highway will clean it up, and then liens will be placed on Mrs. West's property for the cost of the County Highway having to clean it up plus the amount of the fine. Mrs. Rector said it is a very serious matter and she understands Mrs. West has a lot on her agenda. Mrs. Rector said it's not like the Board will give her 30 more days and so on. She said every time Mrs. West's property gets in this condition, Mrs. West will be taken back to court. She said it's not going to become that the neighbors will have to file complaints every time, it's going to have to continuously be cleaned up and stay cleaned up. Mrs. Rector said so far, she has not seen the judge deny the Area Plan Commission a ruling on a situation like this.

The President said there was a motion on the floor and asked if there was a second.

Mike Moesner seconded the motion.

Jeff Valiant said he did not realize there was a mobile home on the property. He asked if the Board could give Mrs. West more time to allow the movement of the mobile home.

Mrs. Rector said Mrs. West also has the option to file for a Variance for the mobile home to stay on her property and come in front of the Board of Zoning Appeals. She said it is a \$200.00 fee, a public hearing, and she would have to notify adjacent property owners. Mrs. Rector said she does not know how the Board of Zoning Appeals would look at it.

Mrs. West asked if she could have a tractor trailer on her property for storage.

Mrs. Rector said no. She said Mrs. West could rent one of those boxes to put her things in but she would have to get a permit for it. Mrs. Rector said the semi-trailers require commercial zoning to be placed on a property.

Mrs. West asked if that was for just the trailer itself.

Mrs. Rector said yes. She said the Board ruled on that issue seven years ago because people didn't want a bunch of semi-trailers lined up on property next to them. She said if the Area Plan Commission receives a complaint, that the Board makes the property owners move them.

Brad Overton said with Jeff Valiant's concern, he would propose 30 days to have the trash cleaned up and 60 days for the mobile home to be removed. He said Mrs. West could come back and provide a contract stating the mobile home would be moved. He said this way there would be progress shown.

Mrs. Rector asked the President if he would like him and her to visit the property before the next meeting.

The President said yes.

Mrs. Rector said that she and the President would visit the property on Friday, May 10, 2013, to see what progress had been made. She said that would determine if Mrs. West would need to appear at the next meeting.

At this time, Brad Overton made a motion to amend his first motion stating Mrs. West has 30 days to clean up the property and 60 days to remove the mobile home.

Mike Moesner seconded the amendment, and it was unanimously approved.

ATTORNEY BUSINESS:

None

EXECUTIVE DIRECTOR BUSINESS:

Tornado Shelter

Mrs. Rector said people are starting to put in tornado shelters. She said Dallas Scott, with EMS, would like for the Area Plan Commission to permit them somehow so they can be put on a GIS layer; and in case of a disaster EMS knows where they are. Mrs. Rector said there would be no inspection on the ones that go in the ground.

Mike Moesner asked Mrs. Rector if there were any rules for what classified as a tornado shelter.

Mrs. Rector said no. She said a lot of people build them in new houses. She said the Area Plan Commission would just ask on the application if the homeowner has one. She said if someone is putting one in the ground, her idea is to have them get a permit and they can go anywhere, there would be no yard requirements or setbacks. Mrs. Rector said she wants to know if all of this is fine just so we have help with the EMA and should there be a fee for a permit or not. She said instead of a \$50.00 fee we can make it a \$25.00 fee or just waive the fee.

Mike Moesner said it was going to be extra work for the Area Plan Commission and he thinks there should be a fee of \$25.00.

Mrs. Rector said the Area Plan Commission would make sure the shelter would not be in any easements.

The President said he thought there should be a fee because there will be some things checked. He asked how the information would be given to Dallas Scott.

Mrs. Rector said there would be a layer created on the GIS System.

The President asked if it is going to be somewhat located on each lot where the shelter is really at. He asked how accurate it would be.

Mrs. Rector said Dallas Scott just wanted to know who has one; in case there are trees down and for some reason the home owner couldn't get out of it, the EMS would know to look for them.

Mike Moesner said he thought it was a good idea.

Mrs. Rector said there could be an article advertised in the newspaper about the permit being required and that it would be for the EMS to locate the property owners.

Jeff Willis made a motion to advertise in the Boonville Standard that permits would be required for tornado shelters and there would be a \$25.00 fee; and any previous tornado shelters would be grandfathered in.

Jeff Valiant seconded, and the motion was unanimously carried.

Amending Ordinances:

Mrs. Rector presented the Board with a list of Ordinances and explained what each one was for. She asked the Board for permission to advertise them.

Jeff Willis made a motion to advertise the Ordinances.

Jeff Valiant seconded, and the motion was unanimously carried.

Being no other business, Jeff Valiant made a motion to adjourn the meeting. Mike Moesner seconded, and the motion was unanimously carried, the meeting adjourned at 6:55 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director